THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 5397 of 2006

Dated: 03.11.2006

Between:

APSRTC United Workers Union, rep. by its Secretary
Sri D.S.Narayana.

..... PETITIONER

AND

The Managing Director, A.P.S.R.T.C., RTC X Roads, Chikkadpally, Hyderabad and others.

....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No.5397 of 2006

ORDER

Aggrieved by the proceedings dated 15.12.2005 passed by the 4th respondent-Assistant Commissioner of Labour, the petitioner-Union filed the present writ petition.

2. The case of the petitioner-Union is that it is a registered one bearing Registration No.2778. In the month of November 2005, the 2nd respondent-Management, without issuing any notice, as contemplated under Section 9-A of the Industrial Disputes Act, 1947 (for short 'the Act'), changed the timings and working hours of the employees, which causes loss of wages, benefits and facilities, and also there is no equal distribution of work among the workers. Therefore, the petitioner-Union made a representation dated 11.11.2005 to the 4th respondent-Assistant Commissioner of Labour to settle the dispute between the Management and the workers as per the provisions of the Act, but the same was rejected by the 4th respondent-Assistant Commissioner of Labour, vide proceedings dated 15.12.2005, stating that to settle the said issue, the petitioner-Union has to approach through the recognized union. Aggrieved by the said proceedings, the petitioner-Union filed the present writ petition.

3. The respondents 1 and 2-APSRTC filed counter affidavit. Reiterating the counter averments, learned Standing Counsel for the respondents 1 and 2-APSRTC submits that the Corporation entered into a settlement on 17.12.1979 with the Recognized Union under

Section 12(3) of the Act, and vide item No.11 of the said settlement, it was agreed to exempt the issues pertaining to the Crew Schedule, bus links and shift timings from the provisions of Section 9-A and therefore, there is no need to issue notice whenever changes are made in the Crew Schedule, bus links and shift timings, as required under Section 9-A of the Act. He submits that the working hours were changed after discussing with the recognized union, and no dispute has been raised by the recognized union with regard to the duty charts. He further submits that since the petitioner-Union is not a majority union in the 2nd respondent-Depot, the 4th respondent-Assistant Commissioner of Labour, has rightly rejected the representation of the petitioner-Union and there are no reasons to interfere with the same.

4. The contention of the learned counsel for the petitioner is that to constitute an industrial dispute, it is not a requisite condition that it should be sponsored by a recognized union or that all the workmen of an industrial establishment should be parties to it, and that a dispute becomes an industrial dispute even where it is sponsored by a union which is not registered. In support of his contention he relied on a judgment of the Apex Court in ***STATE OF BIHAR v. KRIPA SHANKAR JAISWAL***[1]**.** The Learned Government Pleader for Labour fairly conceded that as per the said judgment, it is not a requisite condition that an industrial dispute be sponsored by a recognized union.

5. Heard the learned counsel for petitioner and the learned Standing Counsel for respondents 1 and 2 and the learned Government Pleader for Labour.

6. In the judgment of the Apex Court in ***STATE OF BIHAR v. KRIPA SHANKAR JAISWAL***[2] cited (1 supra), relied on by the learned counsel for the petitioner, it was held thus:

> "For a dispute to constitute an industrial dispute it is not a requisite condition that it should be sponsored by a recognized union or that all the workmen of an industrial establishment should be parties to it. A dispute becomes an industrial dispute even where it is sponsored by a union which is not registered or where the dispute raised is by some only of the workmen because in either case the matter falls within Section 18(3)(a) and (d) of the Act".

7. In view of the above settled principle of law and the agreed stand taken by the learned Government Pleader for Labour, though the petitioner Union is not a recognized Union, yet it can raise an industrial dispute. Therefore, the impugned order passed by the 4th respondent-Assistant Commissioner of Labour holding that the petitioner cannot raise industrial dispute on the ground that it is not a recognized union, cannot be sustained and the same is liable to be set aside.

8. Accordingly, the writ petition is allowed and the proceedings dated 15.12.2005 of the 4th respondent are set aside. The 4th respondent-Assistant Commissioner of Labour is directed to initiate necessary proceedings and pass appropriate orders under Section 12 (1) of the Act. No costs.

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N.V. RAMANA, J.

Date: 03.11.2006

sj/nsr

[1] AIR 1961 SUPREME COURT 304

[2] AIR 1961 SUPREME COURT 304